

SGI

Sustainable
Governance
Indicators

2015 Poland Report

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Executive Summary

In the parliamentary elections held in October 2011, voters – for the first time in Poland’s recent democratic history – reelected an incumbent government and awarded a second term to the two government-coalition partners, the Civic Platform (PO) and the agrarian Polish People’s Party (PSL). As a result, both the government and the presidency were controlled by politicians from the same political party, the PO. Cooperation between President Bronisław Komorowski and Prime Minister Donald Tusk was subsequently fairly peaceful. When Tusk was tapped to become European Council president, taking office in December 2014, Sejm Marshall Ewa Kopacz was elected as the country’s new prime minister in September 2014. The leadership transition was accompanied by a major cabinet reshuffle, but on the whole proceeded rather smoothly.

During the period under review, the quality of democracy in Poland has remained high. Relatively little has changed in comparison to the first years of the second Tusk government’s term. On the positive side, the government finally adopted a comprehensive anti-discrimination strategy in December 2013, and updated its anti-corruption strategy in April 2014. On the negative side, the chaotic local elections in November 2013 undermined the credibility of the electoral process, and the brutal raid on the *Wprost* weekly by the prosecutor general and the Internal Security Agency (ABW) in the context of the 2014 “Waitergate” wiretapping affair raised some doubts regarding the government’s respect for the independence of the media. One striking development has been the surge in local referendums. The many recall referendums have revealed many citizens’ dissatisfaction with their leaders. Against this background, the governing coalition’s late-2013 decision not to call a referendum on the age at which students are to start school helped to increase the gap between the citizens and the government.

Continuity has also prevailed in the field of governance. Due to far-reaching reforms in the past, the Tusk government during the review period was able to rely on a well-developed system of strategic planning, interministerial coordination and regulatory impact assessment. Members of the governing coalition have worked together smoothly, and Poland’s standing in the European Union has further increased. It is telling that Prime Minister Kopacz has seen little need to reform her predecessor’s governing arrangements.

Policy changes have also been limited. After the comprehensive reforms of the recent past, a certain exhaustion and reform fatigue gained ground in the Tusk government, and the much-awaited cabinet reshuffle in December 2013 did not revive the reform spirit. The single most important reform during the period under review was the pension reform adopted in late 2013, which radically rebalanced the relationship between the public and private pillars of the pension system. These reform measures helped to improve the first pillar's financial situation and to reduce the public debt, but have been controversial with regard to their constitutionality and their treatment of property rights associated with second-pillar assets. Similar concerns about the government's reliability were raised by the temporary suspension of the 50% debt threshold in 2013. Although ambitious reforms in their areas of family policy, the education system, and the research and innovation sector continued, the Tusk government did little to address persistent problems in the labor market and the health sector.

Key Challenges

Parliamentary elections will be held in Poland in autumn 2015. While their outcome was still open as of the time of writing, the PO's prospects of retaining power have declined. In November 2014, it lost against rival PiS in the regional and local elections. More importantly, to the surprise of many observers, President Komorowski was not reelected in the May 2015 presidential elections, but instead lost to the relatively unknown PiS candidate Andrzej Duda.

PiS might win the parliamentary elections for two reasons. First, after more than seven years of PO government, the PO looks exhausted, and voters are looking for change. PiS leader Jarosław Kaczyński is trying to capitalize on this sentiment by surrounding the party leadership with younger people, by not running himself and by softening his rhetoric. Second, there is a strong feeling that the PO has fallen out of touch with the people. This feeling, which was nourished by the disdainful talk about ordinary people in the conversations between leading PO politicians made public in the "Waitergate" affair, builds on a broader cultural schism between the younger, urban middle class on the one hand and the older, more conservative population on the other. It also points to the fact that despite the Tusk government's economic successes and strong international reputation, unemployment rates remain high and regional socioeconomic differences in Poland are still significant.

The prospect of a PiS-led government raises a number of questions. What role will Jarosław Kaczyński play? Will he try to control the government from the back seat, or will the new faces in PiS emancipate themselves from him? Will a PiS-led government resort to the populist policy of the Kaczyński government, or will it build on and respect the considerable achievements of the Tusk era? At this stage, these questions are difficult to answer.

As for the PO, the main question is whether or not it will succeed in developing a new reform narrative. Capitalizing on the fear of a Kaczyński return might be sufficient to achieve a narrow win in the parliamentary elections. However, it won't suffice to gain broader support or to open a new era in Polish politics, as Tusk did in 2007.

Policy Performance

I. Economic Policies

Economy

Economic Policy
Score: 8

After years of strong growth, the Polish economy experienced a substantial slowdown in 2012 – 2013, largely caused by the repercussions of the Euro crisis. Aided by fiscal expansion and an accommodating monetary policy, however, economic growth re-accelerated in 2014. Poland's strong economic performance has been facilitated by a good overall economic framework including low labor costs, a stable and well-functioning financial system, a high degree of continuity in economic policy, and a well-functioning administration by regional standards. In the period under review, the pace of the economic liberalization initiated after the 2010 change in government slowed, and the government's pension reform and suspension of the constitutional debt threshold in 2013 have raised some concerns regarding the reliability of economic policy.

Labor Markets

Labor Market
Policy
Score: 6

Despite Poland's favorable overall economic record, the country's labor-market performance has been poor. The unemployment rate still stood above 10% throughout the 2013 – 2014 period, and the employment rate remains one of the lowest in the European Union. At the same time, there are massive regional variations, both between and within regions (voivodships). Public expenditures on labor-market policy are relatively low, and labor-market policies have suffered from weak monitoring, insufficient coordination and a lack of skilled personnel for implementation. A March 2014 amendment to the Act on Employment Promotion and Labor Market Institutions focused on introducing a more individualized approach toward job seekers, and on improving career guidance and counselling. The envisaged strengthening of activation measures has progressed slowly.

Citation:

Boulhol, H. (2014), "Making the Labour Market Work Better in Poland," OECD Economics Department Working Paper No. 1124, Paris (<http://dx.doi.org/10.1787/5jz2pwf4wd41-en>)

Taxes

Tax Policy
Score: 6

Poland's tax system is characterized by a personal-income tax with two rates: 18% up to an income of PLN 85,528 and 32% for those who are above this level. Moreover, the system features a corporate-income tax of 19%, a relatively high standard VAT rate and high social-insurance contributions. Compared to other East-Central European countries, the corporate tax burden and the extent of red tape associated with the taxation of enterprises have been relatively high. Tax reform has not featured very prominently on the agendas of the Tusk and Kopacz governments. The single most important measure adopted by the Tusk government was a reform of VAT administration that aimed at reducing the administrative burden on enterprises and the extent of tax evasion. This took effect in January 2014.

Budgets

Budgetary Policy
Score: 6

Fiscal adjustment featured prominently in the initial policy declarations of the second Tusk government. The government indeed succeeded in reducing the fiscal deficit from its 2010 level of 7.9% of GDP to close to 3% in 2014; however, it has regularly failed to meet its deficit targets. Slower-than-expected economic growth in 2012 – 2013 led to an expansion of the deficit. In order to boost the economy, the government then loosened fiscal policy in mid-2013. To make this possible, it suspended the 50% debt threshold in the constitution, which otherwise would have required an additional tightening of around 1.2 percentage points of GDP in 2013. This move raised strong concerns regarding the reliability of fiscal policy in Poland. The improvement in the country's fiscal stance in 2014 was largely achieved through the controversial changes in the second-pillar pension system and the strong resurgence of growth in 2014.

Research and Innovation

R&I Policy
Score: 6

The Polish system for research and development (R&D) has been significantly restructured since 2010. Science and higher-education reforms in 2010 and 2011 have spurred significant changes, including a move toward more competitive funding, the creation of two R&D agencies respectively for applied and basic research, and efforts to tackle fragmentation by focusing funding on the best-performing institutions. In July 2012, the first six national leading scientific centers (KNOW) were selected. These efforts showed their

first results during the period under review, as private-sector R&I expenditures went up by 17.8% compared to the previous year. However, Poland still scored poorly in the EU's 2014 Innovation Union Scoreboard rankings, and there is still some way to go if Poland is to meet its overall R&D spending target of 1.7% of GDP by 2020.

Global Financial System

Stabilizing
Global Financial
Markets
Score: 7

The Tusk government was not an agenda-setter with regard to the regulation of international financial markets. It supported the idea of a financial-transaction tax, but long opposed the idea of an EU banking union. Poland's financial sector has remained stable despite rapid expansion, as various stress tests have demonstrated. The Polish Financial Supervision Authority (Komisja Nadzoru Finansowego, KNF) has stepped up its oversight of the small but vulnerable credit-union segment, initiating rehabilitation of a number of institutions. The adoption of legislation on the creation of a Systemic Risk Board, a new supervisory institution consisting of the heads of the National Bank of Poland, the KNF, the Ministry of Finance and the Bank Guarantee Fund, has been delayed. Various regulatory changes to curb foreign-currency credit growth have led to a halt in foreign-currency mortgage lending.

II. Social Policies

Education

Education Policy
Score: 7

The first Tusk government launched a number of education reforms that have gradually become effective, and have significantly increased the quality of education in the country. Although education expenditure in Poland is significantly lower than the average expenditure in the European Union more broadly, Polish students now achieve relatively good results at schools. The main aim of the Tusk government's reforms was to reduce the system's lack of synchronization with the labor markets. Reforms have led to a greater emphasis in the curriculum on mathematics, science and technology; a strengthening of vocational education; attempts to attract more students to economically relevant areas; measures to improve the quality of research and teaching at universities; and the adoption of a national strategy for lifelong learning. In June 2014, the Ministry of Education announced a new reform package focusing on improving teaching quality in secondary education. Prime Minister Kopacz has placed a strong emphasis on the continuation of education reform.

Social Inclusion

Social Inclusion
Policy
Score: 7

Social inequalities have diminished since the early 2000s. This has partly been due to Poland's strong economic performance. In addition, the Tusk government has been successful in mitigating regional disparities through successful regional-development policies. Moreover, government policies have helped improve families' financial conditions, especially those suffering from poverty, and have increased average educational attainments. The most dramatic pockets of poverty have shrunk, and income inequality has fallen substantially since the early 2000s. In-depth sociological studies have shown that poverty in Poland is not inherited across generations.

Citation:

Henryk Domanski. 2013. 'Sprawiedliwe nierownosci zarobkow'. Warszawa: Scholar

Health

Health Policy
Score: 5

Public health insurance covers some 98% of Poland's citizens and legal residents. However, access to health care is highly uneven, as public health insurance covers only a limited range of services, and out-of-pocket payments feature prominently in the system at large. Moreover, the poor quality of some services falls far under citizens' expectations, and for some services, patients must wait for an unreasonable duration. As a result, a 2012 survey found that only 11% of respondents had a positive opinion regarding the work of the country's National Health Insurance Fund (Narodowy Fundusz Zdrowia, NFZ). The Tusk government's reforms largely focused on the corporatization of hospitals. As this has not resulted in improvements to working conditions or the quality of health care, the reforms have been widely criticized. In October 2012, Health Minister Bartosz Arlukowicz announced a new round of reforms, with a focus on decentralizing decisions made by the NFZ. As of the time of writing, these reforms had not yet materialized, and Arlukowicz only narrowly survived a no-confidence vote in the Sejm in January 2014.

Citation:

N. Hipsz, *Opinie o funkcjonowaniu systemu opieki zdrowotnej* [Opinions on Functionality of the Health Care System], CBOS Report 2012. Available online on: http://cbos.pl/SPISKOM.POL/2012/K_034_12.PDF (accessed on 04.28.2014).

Families

Family Policy
Score: 7

Poland's employment rate among women falls below the OECD and EU averages, and its child-care infrastructure is weak. However, the Tusk

government put a heavy emphasis on improving women's labor-market integration, and on fostering a more balanced division of labor among the sexes. In his state-of-the-nation address at the opening of his second term, Prime Minister Tusk announced the introduction of a package of five pro-family reforms, including an extension of parental leave from three months to one year, increased public spending for the construction and maintenance of crèches, and a cap on kindergarten fees. Prime Minister Kopacz has stuck to this course, and has announced plans to further expand public spending for child care in 2015, additionally making all parents, including students, farmers and the unemployed, eligible for support.

Pensions

Pension Policy
Score: 7

Poland introduced a three-pillar pension system following World Bank recommendations in 1999. Starting in 2011, pension contributions were partially redirected from the second – obligatory, but private and funded – to newly created subaccounts in the first, public pillar. In addition, the sustainability of the first pillar was improved in 2011 by the adoption of an increase in statutory retirement ages, which will be phased in between 2013 and 2020 (for men) or 2040 (for women). Further changes were adopted in late 2013. By making participation in the second pillar voluntary, and by reducing the share of the pension contribution to be paid to the second pillar, the weight of the second pillar was further reduced. The Treasury and Treasury-guaranteed bonds held by the pension funds in the second pillar were transferred to the social-security administration and converted into future pension claims, thereby substantially reducing the (explicit) public debt. Finally, pension funds were banned from investing in government bonds, but given more scope for holding foreign securities. These reform measures have helped improve the financial situation of the first pillar and have helped reduce the public debt; however, they have been controversial with respect to their constitutionality and their treatment of the property rights associated with second-pillar assets.

Citation:

IMF, 2014: Republic of Poland: Selected Issue. Country Report No. 14/174., Washington, D.C., 59-82 (<http://www.imf.org/external/pubs/ft/scr/2014/cr14174.pdf>).

Integration

Integration Policy
Score: 5

Migration to Poland has increased, but is still relatively minimal. Issues related to Poland as a sending country have featured far more prominently on the political agenda than have issues related to Poland as a receiving country. Ukrainians and Vietnamese make up the largest group of migrants to the

country. In 2012, the Tusk government adopted a new law on migration and integration, as well as a reform of Polish citizenship law. Given impetus by EU law and demographic changes in Poland itself, the reforms have made it easier to acquire Polish citizenship and to apply for a work and residence permit in a single procedure. They also prolonged the period given to foreign graduates to find employment in Poland. President Komorowski signed the law in December 2013, and it took effect on 1 May 2014. However, Poland has not yet signed the U.N. Convention on Migrant Workers' Rights, and the institutional framework for dealing with immigrants is still very weak overall.

Safe Living

Safe Living
Conditions
Score: 8

The annual number of homicides and thefts further decreased during the review period, and the feeling of safety among citizens has grown. While men face a greater risk of falling victim to assaults or other violent crimes, women report lower feelings of security than men. The effectiveness of the police forces has increased.

Global Inequalities

Global Social
Policy
Score: 6

Like its predecessors, the Tusk government did not take an active role in addressing global social inequalities. However, the new Act on Development Cooperation, approved by parliament in September 2011 after six years of debate, put development cooperation and foreign-aid programs on a new footing, paving the way for Poland to become the 28th member of the OECD Development Assistance Committee (DAC) in October 2013. Since the country's EU accession, official development assistance has doubled, making Poland the world's 26th largest donor in 2013. That year, the country delivered 29% of ODA bilaterally and 71% within the framework of multilateral organizations. One of the priorities noted in Poland's Strategy for Development Cooperation from 2012 – 2015 is providing assistance to small and medium-sized enterprises in partner countries.

III. Environmental Policies

Environment

Environmental
Policy
Score: 6

Poland has enshrined the principle of sustainable development in Article 5 of its constitution, and has broadly adopted EU environmental standards. However, there is a broad political consensus in the country that economic

growth should be given priority over protection of the environment. Governments have been especially keen on protecting the domestic coal industry, which is a large employer and reduces the country's dependence on Russian energy, an issue that has taken on even greater prominence since the Ukrainian crisis. With the coal industry in mind, the Tusk government sought to obstruct attempts by the European Union to tighten targets for the reduction of carbon emissions. The government's emphasis on and liberal approach toward the exploration and production of shale gas, as well as its plan to build a nuclear-power station, have led to controversy. Shale-gas production plans have triggered protests by citizens. In 2013 – 2014, an initiative in the village of Żurawłów in southeast Poland became quite famous for its successful protest against Chevron, which had conducted some local test drillings.

Global Environmental Protection

Global
Environmental
Policy
Score: 4

Poland has largely implemented EU environmental standards. However, it has been one of the primary internal critics of the EU's climate policy and emissions-trading system. Across the political spectrum, large parts of the Polish political elite have feared that ambitious international or European climate-protection regimes will reduce Poland's energy independence and place a heavy burden on the Polish economy.

Quality of Democracy

Electoral Processes

Candidacy
Procedures
Score: 10

Regulations governing the electoral process were consolidated within the Election Code in January 2011. Provisions regarding the registration of parties and candidates are liberal and ensure a fair registration procedure. Every Polish citizen has the right to stand for election. Senators need to be at least 30 years old, while presidential candidates must be at least 35. Candidates for the Sejm (the lower house of the Polish parliament) can be proposed by organizations such as parties or by voters themselves. A group of 1,000 individual citizens or more can form a so-called electoral committee by signing the proper documentation and submitting it to the National Electoral Commission. Parties representing ethnic minorities receive favorable treatment, as they are allowed to collect fewer signatures than required of “normal” parties in order to take part in elections. The Election Code also introduced a gender quota, mandating that men and women each must account for at least 35% of Sejm candidate lists.

Citation:

Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl), pp. 110 ff

Śledzińska-Simon, Anna Bodnar, Adam, 2013: Gender Equality from Beneath: Electoral Gender Quotas in Poland, in: *Canadian Journal of Law and Society* 28(2): 151-168.

Media Access
Score: 9

Parties and candidates have equal access to public and private media. At least for nationwide candidate lists, the Election Code requires public TV and radio stations to reserve time for the free broadcasting of campaign materials and for televised candidate debates. Although the government still wields some influence within the National Council on Radio and Television (KRRiT), the country’s main media-oversight body, the partisan bias to public-media reporting has become substantially weaker than in previous periods. Moreover, the pluralistic nature and quality of private media in Poland allows all parties and candidates the opportunity to reach the public with their messages.

Citation:

Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl), pp.114-115

Voting and
Registrations
Rights
Score: 10

The 2011 Election Code made voting rights more transparent by consolidating provisions for different election levels into a single law. Almost all adult citizens in Poland have the right to vote. While there is no blanket disenfranchisement of convicts or individuals who have been declared incapacitated, existing provisions are not fully in line with the rulings of the European Court of Human Rights. As Polish citizens are automatically registered to vote, there is no need for prior registration before elections. Since August 2014, all citizens, not only the disabled and those living abroad, have been able to vote by mail. In the November 2014 local elections, an information-technology failure led to delays in the reporting of the election results, prompting voting-fraud allegations by PiS, the main conservative opposition party.

Citation:

OSCE/ ODIHR, 2011: Election Assessment Mission Report: Poland, Parliamentary Elections, 9 October, 2011 (<http://www.osce.org/odihr/elections/87024>).

Party Financing
Score: 8

Regulation of party and campaign financing is clear and effective. While party financing is governed by the 2001 Political Parties Act, the rules governing campaign financing are part of the 2011 Election Code. Parties depend heavily on public funding, which is provided only to parties that win at least 3% of the vote. Party spending is monitored by the National Election Office, the executive body of the National Election Commission, which consists of nine active or retired judges appointed by the president. Monitoring is strict, but is limited to the spending financed by public funds. According to the Election Code, only registered electoral committees can finance campaigns, and there is a maximum spending limit for campaign purposes of approximately €7 million. In practice, separating party and campaign financing has sometimes turned out to be challenging. A 2014 amendment to the Political Parties Act limited the risk that parties might lose money due to minor accounting mistakes.

Popular Decision-
Making
Score: 7

Polish law provides for various forms of direct democracy. On the local and regional level, a referendum is called when it is supported by 10% of the electorate. On the national level, referendums can be called only by the lower house of parliament (the Sejm), or the president. However, popular initiatives are also possible. A total of 100,000 voters can collectively submit a draft bill, which the Sejm then has to pass or reject. In 2013 and 2014, the number of referendums at the local level increased. While recall referendums aiming at replacing sitting mayors drew the most attention, there were also a number of referendums on substantive issues. In May 2014, for example, the citizens of Krakow rejected the city's bid to host the 2022 Olympic Games, while opting to construct a metro rail system, more video monitoring and more cycle paths

in the city. On the national level, no referendums were held in the period under review. In November 2013, the Sejm rejected an initiative to call a referendum on the age at which children began school. This decision was highly controversial, since the initiative enjoyed strong backing by the Catholic Church, was supported by almost 1 million citizens, and had won support even among the ranks of the PSL, the junior coalition partner. The governing PO came under heavy fire for its lack of respect for direct democracy.

Access to Information

Media Freedom
Score: 8

The Polish government largely respects the independence of the media. However, even after a reform in 2010, the National Council on Radio and Television, which oversees the public media, has remained a politicized body. Cases of politically motivated appointments at TVP (Poland's public TV broadcaster) and PR (Polish public radio) continue to emerge. Doubts regarding the government's respect for media freedom were raised by the brutal raid on the weekly *Wprost* by the prosecutor general and the Internal Security Agency (ABW) in the context of the 2014 "Waitergate" wiretapping affair. Media freedom is also somewhat impaired by a number of controversial provisions in the Penal Code concerning defamation and giving offence with reference to religious beliefs; in some cases, these provisions have been used to justify legal action against journalists. As in the case of private media organizations' economic dependence on advertisers, this has prompted self-censorship, especially with regard to investigative journalism.

Citation:

P. Bajomi-Lazar, H. Örnebring, V. Stetka, Poland. A country report for the ERC-funded project on Media and Democracy in Central and Eastern Europe [online]. Available online on: <http://mde.politics.ox.ac.uk/index.php/country-reports> (accessed on 11.16.2013).

Media Pluralism
Score: 9

Poland's media market is one of the largest in Europe, offering a diverse mix of public and private media organizations and reflecting a broad spectrum of political opinions. While the public TV station TVP and its four channels claim a large share of the market, and local authorities often publish newspapers and magazines, most Polish print media and radio in general are privately owned. Despite a tendency toward concentration, media ownership remains diversified. Foreign owners still control more than half of the Polish media market. Compared to other countries in East-Central Europe, Poland's media-ownership structures are relatively transparent, and there are no "media moguls" in the market who use their ownership positions to further a political agenda.

Citation:

P. Bajomi-Lazar, H. Örnebring, V. Stetka, Poland. A country report for the ERC-funded project on Media and Democracy in Central and Eastern Europe [online]. Available online on:

<http://mde.politics.ox.ac.uk/index.php/country-reports> (accessed on 11.16.2013).

Access to
Government
Information
Score: 8

Access to public information is guaranteed in Article 61.1 of the Constitution of the Republic of Poland, and the Law on Access to Public Information provides for far-reaching access to official information. The law defines public information as information on public matters, and covers trade unions and political parties as well as the government. In response to an EU directive, a September 2011 amendment facilitated the reuse of government information by citizens, and called on public institutions to provide resources enabling citizens to access information. While the Sejm makes a fair amount of information publicly available, many ministries render such information difficult to find and work with, even online. NGOs such as the Polish Open Government Coalition complain that public institutions take too long to process requests.

Citation:

M. Gumkowska, J. Herbst, J. Kołaczyński, K. Kościelecka, A. Miazga, Dostęp do danych publicznych w Polsce [Access to Public Data in Poland], Klon/Jawor Association, Warsaw 2013.

M. Siwanowicz, J. Górnicki, M. Rzeplińska, A. Ścisłowska, Misja Otwartość: Dostęp do informacji i transparentność Działań Sejmu RP na tle założeń międzynarodowej Deklaracji w sprawie otwartości parlamentu [Mission Openness: Access to information and transparency of Activities of the Sejm of the Republic of Poland against the objectives of the international Declaration on opening Parliament], ePaństwo Foundation, Association 61/MamPrawoWiedzieć.pl, Warsaw 2013.

Civil Rights and Political Liberties

Civil Rights
Score: 8

State institutions largely respect and protect civil rights. However, inefficiencies in the Polish court system, including lengthy court proceedings, have stymied efforts to adequately uphold civil rights. The European Court of Human Rights has criticized the Polish government several times for unduly lengthy court proceedings and excessive periods of pre-trial custody.

Political Liberties
Score: 9

In Poland, political liberties are largely protected. However, controversial amendments to the Law on Public Assembly in 2012 made it more difficult for citizens to organize demonstrations, and rendered it almost impossible to organize two demonstrations in the same place at the same time. Moreover, the amendments complicated spontaneous gatherings by extending the minimum time that must elapse between registration and the event itself. In a number of cases, municipalities have banned controversial demonstrations by invoking concerns over “public safety.”

Non-
discrimination
Score: 8

A comprehensive Anti-Discrimination Act in line with EU directives has been in effect only since the beginning of 2011. The implementation of the Act on Equal Treatment largely rests with the Commissioner for Citizens’ Rights (Rzecznik Praw Obywatelskich), which was originally established in 1987.

This body's effectiveness has suffered as it has assumed more responsibilities, as the expansion has not included a corresponding increase in resources. In December 2013, the Council of Ministers adopted the first government program to tackle the problem of discrimination in general, focusing on six areas including anti-discrimination, equal treatment on the labor market, the prevention of violence (including domestic violence) and an increase in support for victims, equal treatment in education, equal treatment in the health system, and equality of access to goods and services. An amendment that took force 1 September 2014 enabled the organization of ethics classes for pupils declining to attend religion-instruction classes, as had been demanded by the European Court of Human Rights since 2010. However, conservative legislators within the governing coalition successfully continued to block the ratification of the Council of Europe's Convention on Preventing and Combating Violence Against Women.

Rule of Law

Legal Certainty
Score: 9

Poland offers a high degree of legal certainty. Both the government and its administration act predictably and in accordance with the law. Since the 2010 presidential elections, disagreements between the government and the president, which had reduced legal certainty in the past, have been rare. However, complex and contradictory regulations sometimes limit the predictability of administrative behavior.

Citation:

Zielona księga: system stanowienia prawa w Polsce [Green Book: Law-making system in Poland]. Office of the President of the Republic of Poland and Public Debate Forum, Warsaw 2013.

Judicial Review
Score: 9

Polish courts are independent from the executive, and are relatively well-financed and adequately staffed. While the Constitutional Tribunal enjoys a good reputation among citizens and experts alike, the lower courts are widely considered to be less effective. A reform of the judiciary that followed the 2011 parliamentary elections sought to expedite court procedures. Upon coming to office, Cezary Grabarczyk, the new minister of justice in the Kopacz government, announced further reforms. The country still lacks a comprehensive system of legal aid for those in need.

Citation:

R. Boguszewski, O przestrzeganiu prawa i funkcjonowaniu wymiaru sprawiedliwości w Polsce [On respecting the law and functioning of the judiciary in Poland], a report by CBOS [online]. Available online on: http://www.cbos.pl/SPISKOM.POL/2013/K_005_13.PDF (accessed on 03.18.2013).

Appointment of
Justices
Score: 7

Provisions governing the appointment of justices have not changed in the review period. Supreme Court and the Constitutional Tribunal justices are chosen on the basis of different rules. In the case of the Supreme Court, the

ultimate decision is made by the National Council of the Judiciary, a constitutional body consisting of representatives of all three branches of power. The 15 justices of the Constitutional Tribunal are by contrast elected individually by the Sejm for terms of nine years, on the basis of an absolute majority of votes with at least one-half of all members present. The president of the republic selects the president and the vice-president of the Constitutional Tribunal from among the 15 justices, on the basis of proposals made by the justices themselves.

Corruption
Prevention
Score: 7

Integrity mechanisms have functioned relatively well in Poland, and corruption at the top has been limited. As a result, Poland has scored relatively well in most corruption indexes. The last institutional reforms were implemented in 2011, when the office of the plenipotentiary for the fight against corruption was abolished and the tasks of the Central Anti-Corruption Bureau (CBA), established in 2006, were expanded. Spurred by the emergence of several corruption cases in the second half of 2013, the Ministry of the Interior initiated debate on a renewed anti-corruption strategy for the 2014 – 2019 period. The strategy, which was eventually adopted in April 2014, strengthens the coordinating role of the Ministry of the Interior and places greater emphasis on education and prevention. In 2014, the CBA worked on 477 cases and completed 214 investigations. Local administrative bodies have been the most vulnerable to corruption.

Citation:

Polityka antykorupcyjna. Ocena skuteczności polityki antykorupcyjnej polskich rządów prowadzonej w latach 2001–2011 [Anti-corruption Policy. Assessment of Effectiveness of Anti-corruption Policy of Polish Governments conducted from 2001 to 2011], edited by J. Winczorek, the Batory Foundation, Warsaw 2013.

Governance

I. Executive Capacity

Strategic Capacity

Strategic
Planning
Score: 7

Since the inauguration of the first Tusk government, Poland has ambitiously sought to improve its strategic-planning capacity, given impetus by EU demands and partly motivated by the objective of improving its absorption and use of EU funds. The planning capacities of the Chancellery of the Prime Minister (Kancelaria Prezesa Rady Ministrów, KPRM) have been expanded, and the previously uncoordinated assortment of sectoral plans have been replaced with a more systematic approach in which a long-term strategy developed by the Chancellery (Poland 2030: The Third Wave of Modernity) establishes a framework for a limited number of medium-term strategies.

Citation:

OECD, 2013: Public Governance Review Poland: Implementing Strategic-State Capacity. Paris, Chap. 2.

Scholarly Advice
Score: 7

The Tusk government relied strongly on scholarly advice. Thus far, there is no sign that Prime Minister Kopacz has a different approach. A broad range of experts from various academic institutions and non-governmental organizations have been consulted. The Economic Council, established in March 2010 and composed of scientists and practitioners, has become an important source of advice regarding economic policy. However, the establishment of new expert commissions has featured less prominently than in the first Tusk government. The consultation of experts has suffered from a lack of transparency, and in some cases experts have acted primarily as lobbyists.

Interministerial Coordination

GO Expertise
Score: 9

The Tusk government strengthened the policy expertise of the Chancellery of the Prime Minister. The Chancellery's Council of Ministers Committee Department monitors the government's legislative work and issues opinions

GO Gatekeeping Score: 8	<p>on documents to be submitted to the Council of Ministers.</p> <p>The prime minister and his/her Chancellery plays a strong gatekeeping role. The prime minister is formally allowed to return items on policy grounds, and has also enjoyed a strong informal authority. All draft bills are reviewed by the Chancellery's Council of Ministers Committee Department before their presentation in the Council of Ministers.</p>
	<p>Citation: G. Wierczyński, <i>Redagowanie i ogłaszanie aktów normatywnych. Komentarz</i>, Wolters Kluwer Polska, Warszawa 2010</p>
Line Ministries Score: 8	<p>Under the Tusk government, the Chancellery enhanced its formal and actual involvement in the preparation of policy proposals by the line ministries. While conflicts did occur, cooperation was in fact smoother than in the past. The Chancellery's involvement differed between PO- and PS-led ministries, as the latter typically sought to consult with Deputy Prime Minister Piechociński (PSL) before going to the Chancellery.</p>
Cabinet Committees Score: 4	<p>The number of cabinet committees was kept low under both the Tusk and Kopacz governments. The two most important such committees are the Development Policy Coordination Committee and the Committee on European Affairs. The former is in charge of coordinating the country's development strategy, while the latter is responsible for EU coordination. In both cases, however, coordination has largely been accomplished by top civil servants rather than by the ministers themselves.</p>
Ministerial Bureaucracy Score: 6	<p>Senior ministry officials play a substantial role in interministerial coordination. All meetings of the Council of Ministers, the Polish cabinet, are prepared by the Council of Ministers' Permanent Committee, which is made up of deputy ministers from the ministries. The Committee for European Affairs, which is in charge of EU coordination, also relies strongly on coordination by top civil servants. In contrast, bureaucratic coordination at lower levels of the hierarchy is still relatively limited, even though the joint administration of EU funds has helped to intensify interministerial exchange.</p>
Informal Coordination Score: 7	<p>Though the formal mechanisms of interministerial coordination were strengthened under the Tusk government, informal-coordination mechanisms have continued to play an important role. As one example, meetings between the government-coalition partners have been used as a venue for solving conflicts between ministries respectively led by the Civic Platform (PO) and the Polish People's Party (PSL). For another, many ministers have been active and high-ranking party members; thus, some aspects of interministerial coordination have taken place within the Civic Platform and Polish People's Party leaderships.</p>

Evidence-based Instruments

RIA Application
Score: 8

Since 2001, regulatory impact assessments (RIAs) have been mandatory for all new government bills and regulations. Comprehensive RIA guidelines were first introduced in 2006, and were updated by the Ministry of Economics' Regulatory Reform Unit in 2009. At the end of 2011, traditional RIAs were complemented by a new "regulatory test," a short document consisting of 18 items and questions. While an RIA is usually implemented after a decision to proceed with the new regulation has already been made, the regulatory test is supposed to take place at an earlier stage of decision-making. Unlike an RIA, however, the regulatory test is not obligatory. Despite various attempts to strengthen the RIA process, including a refinement of the "regulatory test" implemented in October 2013, in practice many assessments do not comply with guidelines, and lack important information necessary for making informed decisions.

Citation:

OECD, 2013: Public Governance Report Poland: Implementing Strategic-State Capacity. Paris, Chap. 3.

Quality of RIA
Process
Score: 9

Stakeholders are often involved in regulatory impact assessments (RIAs), and the results of assessments are published on ministry websites as well as on the website of the Government Legislative Center (Rządowe Centrum Legislacji). The responsibility for checking the quality of individual RIAs does not rest with an independent body, but rather with a special RIA unit within the Chancellery of the Prime Minister. This unit was strengthened after the 2011 elections through an increase in its staffing, and by being moved to the Chancellery's Department of Strategic Analysis.

Sustainability
Check
Score: 7

Article 5 of Poland's constitution enshrines the principle of sustainable development, according to which the state ensures the protection of the environment, guided by the principle of sustainable development. The first national sustainability strategy was adopted in 2000. While the government has increasingly paid attention to sustainability issues in policy documents, sustainability checks are not an integral part of regulatory impact assessments. Assessments cover a broad range of issues, yet treat environmental issues as less relevant than economic issues. There is also no systematic distinction between short-, medium- and long-term impact.

Societal Consultation

Negotiating
Public Support
Score: 7

The Polish government is obliged by law to consult all parties affected by proposed legislation. It is supposed to discuss all significant reform projects with major interest groups in advance, and has introduced the option of online

consultations with ministries as well as the additional Internet-based option of following a bill through the stages of lawmaking. In practice, however, the government's consultation with societal actors is often formalistic. In June 2013, the Tripartite Commission, one of the traditional and most institutionalized forms of consultation, ceased operations because of conflicts between trade unions and the government.

Citation:

Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl), pp. 118 onwards

Policy Communication

Coherent
Communication
Score: 7

Ministry communication is coordinated by the Government Information Center, a department of the Chancellery of the Prime Minister. However, ministers have occasionally voiced positions that differ from the government's line. Moreover, the Government Information Center has failed to inform the citizens regularly or comprehensively about government activities.

Implementation

Government
Efficiency
Score: 8

The second Tusk government started with an ambitious reform program and succeeded in implementing major and politically difficult reform projects such as an increase in the retirement age, a reduction in the fiscal deficit and a deregulation of professions. Tusk also largely implemented a set of higher-education reforms initiated during his government's first term. In addition, he was generally successful in maintaining unity within his cabinet, while simultaneously managing to garner the support of parties outside the governing coalition, such as the Democratic Left Alliance (SLD) on the left and Poland Comes First (PJN) on the right, in cases when parliamentary majorities were uncertain. Prime Minister Kopacz has announced intentions to focus on the two main goals the Tusk government failed to meet – achieving a sustainable fiscal consolidation and a reduction in unemployment rates.

Ministerial
Compliance
Score: 8

Prime Minister Tusk and his Chancellery enjoyed a relatively strong position within the Council of Ministers, and largely succeeded in committing line ministers to the implementation of the government's program. However, ministers have still enjoyed some autonomy. This particularly applies to ministers nominated by the junior coalition partner, the Polish People's Party (PSL), and who have been able to capitalize on their position of power.

Monitoring
Ministries
Score: 7

Ministries are obliged to keep the Chancellery of the Prime Minister apprised of legislative progress on a regular basis. Although ministries have sought to maintain their autonomy, and monitoring has remained largely formal, the

prime minister and the Chancellery have controlled policy implementation to a great extent.

Monitoring
Agencies,
Bureaucracies
Score: 8

There is a large number of executive agencies in Poland. Agencies report to ministries, and ministries have special units responsible for monitoring the activities of agencies and auditing their finances. The effectiveness of monitoring has improved over time.

Task Funding
Score: 7

Since 1999, Poland has supported three tiers of subnational governments: municipalities, districts and regions. A number of reforms, most notably the health care and education reforms enacted in 1999, increased the responsibilities of subnational governments, but in some cases did not provide sufficient additional resources. The increasing availability of EU funds has helped to alleviate this problem.

Constitutional
Discretion
Score: 7

The process of government decentralization that started in 1998 has been broadly accepted. Both the Tusk and the Kopacz governments have largely refrained from intervening in the affairs of subnational governments. However, there have been some conflicts over health care and education reforms. Most notably, some subnational governments have criticized the government for its insistence on hospital privatization.

National
Standards
Score: 8

The central government has set national standards with the aim of guaranteeing a minimum quality of public services. In the regions, the centrally appointed head of regional administration is responsible for ensuring that national policies are implemented, and that state institutions operating in the region perform their functions properly. For a number of reasons, municipalities and regions have increasingly been able to meet existing standards. Primarily, these subnational bodies' fiscal health has improved, and their staff has become increasingly professional. Moreover, the degree of cooperation between these two subnational levels of government has increased. However, public spending at the local level is not fully transparent.

Adaptability

Domestic
Adaptability
Score: 7

Government structures in Poland have been gradually adapted to international and supranational developments, most notably NATO and EU membership. Poland's good reputation and its growing influence in the European Union show that adaptation has been successful, as has the relatively high and increasing rate of absorption of EU funds.

International
Coordination
Score: 8

Poland has taken an active role in international policy coordination, most notably within the European Union. As its successful EU presidency and its impact on EU policies toward its eastern neighbors show, Poland has sufficient capacity to act on the international level. While its capacities have been increased through cooperation with Germany, its continued presence outside the euro zone hampers coordination somewhat. The country's positions on

climate policy also differ from many other EU countries, as well as from the EU Commission's targets. The political crisis in Ukraine and the military conflict with Russia led Poland to seek a diplomatic solution in conjunction with France and Germany, but as of the time of writing, the conflict remained far from solution.

Organizational Reform

Self-monitoring
Score: 6

As part of its reform efforts, the Tusk government regularly monitored the institutional arrangements of governing. It remains too early to say whether the Kopacz government will follow suit.

Institutional
Reform
Score: 7

In the period under review, the Tusk government largely relied on the institutional framework it had developed in the years since 2007. The cabinet reshuffles in November 2013 and September 2014 brought minor changes in ministerial portfolios.

II. Executive Accountability

Citizens' Participatory Competence

Policy
Knowledge
Score: 5

Despite recent attempts to improve access to government information, the average level of knowledge regarding government policy within the Polish public remains limited. Reasons include a tendency toward infotainment in many media outlets, the populist propaganda produced by opposition parties, and a general detachment from politics among the citizenry. Moreover, political parties, trade unions and most other professional associations do not properly perform their socialization function, and fail to improve their members' policy knowledge.

Citation:

Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl),

Legislative Actors' Resources

Parliamentary
Resources
Score: 9

The Chancellery of the Sejm provides sufficient resources to members of parliament (MPs) for the effective monitoring of government activities. MPs have permanent support staff and can draw on the Sejm's library and the expertise of the Sejm's Bureau of Research (BAS). In addition to researching legal issues, the BAS publishes a newsletter, discussion papers and a peer-

Obtaining Documents Score: 10	<p>reviewed quarterly Law Review (Zeszyty Prawnicze BAS). Many of its expert reports are of high quality and are used outside parliament.</p>
	<p>Parliamentary committees have both de jure and de facto full access to government documents. Members of parliament may demand information from government officials, either in written or verbal form, at the sitting of the Sejm plenary or at a committee meeting. These requests are usually complied with.</p>
	<p>Citation: Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl)</p>
Summoning Ministers Score: 10	<p>Ministers and heads of the supreme organs of state administration (or their representatives) are obliged to take part in committee meetings whenever issues are discussed that fall within their domain. No restrictions are observed in practice. Groups comprising at least 15 MPs and parliamentary party groups have the right to ask for up-to-date information from members of the government. The Sejm then issues opinions, desiderata and suggestions on these reports. The comments are not legally binding, but in a worst case scenario may lead to a vote of no confidence against a minister, and even to his or her dismissal. Parliamentarians tend to make proper use of their means for obtaining information, but sometimes complain about the substantive quality of the government's responses.</p>
Summoning Experts Score: 10	<p>Parliamentary committees have the right to invite experts to give statements on hearings on particular issues or to take part in normal committee proceedings. The invitation of experts, ranging from academic scholars to representatives of lobbying groups and non-governmental organizations, is a common practice, and their input is valued. Experts take their role more seriously now than was the case in the past, and do not primarily play a lobbying role. Nevertheless, the selection of experts consulted could be improved.</p>
Task Area Congruence Score: 9	<p>The number of Sejm committees exceeds the number of ministries. However, some committees, such as the Deputies' Ethics Committee, deal exclusively with internal parliamentary issues. Most ministries, including the more important ones, have only a single oversight committee, a so-called branch committee. The distribution of subject areas among committees does not infringe upon parliament's ability to monitor ministries.</p>
Audit Office Score: 10	<p>Poland's Supreme Audit Office (Naczelna Izba Kontroli, NIK) is an efficient and effective institution whose independence is respected. It is accountable exclusively to the Sejm. The NIK chairperson is elected by the Sejm for six years, ensuring that his or her term does not coincide with the term of the Sejm. The Senate has to approve the Sejm's decision. The Supreme Audit Office has wide-ranging competencies and is entitled to audit all state institutions, government bodies and local-government administrative units, as</p>

well as corporate bodies and non-governmental organizations that pursue public contracts or receive government grants or guarantees. The NIK can initiate monitoring proceedings itself or do so at the request of the Sejm, its bodies or its representatives (e.g., the speaker of the Sejm, the national president or the prime minister). The office is also responsible for auditing the state budget.

Ombuds Office
Score: 10

The Polish ombuds office, the Commissioner for Citizens' Rights, is an independent state organ and is accountable exclusively to the Sejm. It has substantial investigative powers, including the right to view relevant files or to contact the prosecutor general. Because of its strong engagement for citizens' rights ever since its creation in 1987, the ombuds office has traditionally been accorded a good reputation. However, this reputation suffered somewhat as a consequence of the controversial views on issues such as homosexuality and the death penalty held by Janusz Kochanowski, the commissioner elected in January 2006 (who subsequently died in the Smolensk air crash in 2010). Kochanowski's successor, lawyer and former Sejm member Irena Lipowicz, has managed to restore the office's good reputation. She has paid special attention to the rights of the disabled and the elderly. However, the effectiveness of the ombuds office has suffered, as the institution has been assigned new tasks in the field of anti-discrimination policy, but lacks sufficient new funds to perform the tasks properly.

Media

Media Reporting
Score: 7

Government decisions are widely covered by the country's main TV and radio stations. TV and radio journalists often refer to, and make use of, the in-depth information provided by the print media. Despite a tendency toward infotainment, the quality of reporting by the public broadcaster and the two major private TV companies, POLSAT and TVN, has increased. Rzeczpospolita, the second-largest daily paper in Poland, has benefited from a change in ownership and editorial staff, and has become less politically partisan. However, there is still comparatively little public trust in the objectivity of the media. Moreover, citizens do not see major differences in the reliability of the information programs offered by public and private TV broadcasters.

Parties and Interest Associations

Intra-party
Democracy
Score: 7

For the last decade, political parties have functioned under legislation that strictly defines the role of a political party and how parties are financed. Since most funding is public, the government mandates that parties themselves are governed by democratic principles. However, the reality is mixed, with some parties meeting democratic standards while others fall short. Charismatic party

leaders such as Janusz Palikot of Palikot's Movement (now called Twoj Ruch, or Your Movement) hold strong positions within their party, as does Jarosław Kaczyński, who has served as president of the conservative Law and Justice (PiS) party since 2003. The Polish People's Party (PSL) has also been characterized by a hierarchical mode of organization. By contrast, the Civic Platform (PO) has often experienced intra-party controversies. In 2012 and 2013, a conservative faction around Justice Minister Jarosław Gowin mounted a challenge to then-Prime Minister Tusk, but ultimately left the party. This strengthened Tusk's position; however, his attempts from early 2014 on to introduce more democratic voting and nomination procedures did not work well. As of the time of writing, it was not yet clear whether new Prime Minister Ewa Kopacz, who integrated some Tusk critics into her cabinet, would be able to practice a more deliberative style of leadership.

Association
Competence
(Business)
Score: 6

Poland has a relatively developed universe of interest associations. Business associations and trade unions have become increasingly professional over time. However, the unions have largely taken an obstructionist approach toward government reforms. By contrast, leading business associations such as the Konfederacja Lewiatan and the Business Center Club (BCC) have the expertise and resources to carry out research and formulate elaborate reform proposals. Konfederacja Lewiatan monitors many draft bills, and its spokespeople maintain a strong media presence. There are also a number of smaller associations that organize internationally known events such as the European Forum for New Ideas (EFNI), which annually invites leading public intellectuals, academics and politicians, both Polish and European, to the EFNI conference in Sopot.

Association
Competence
(Others)
Score: 6

Poland has a number of interest associations beyond business associations and trade unions. However, compared to other countries, there are comparatively few environmental groups. Most non-governmental organizations are relatively small, and there are only a few interest associations that focus on – and are capable of – developing full-blown policy proposals. The Catholic Church, still the most influential interest group in Poland, pursues relatively narrow interests, and is largely preoccupied with stabilizing its influence within an increasingly secular society.

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